PATENT Docket No.: 1038-844

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Loosmore, et al.
Application No.:		09/210,995
Filing Date	:	December 15, 1998
Title	:	Multi-Component Vaccine Comprising At Least Two Antigens From Haemophilus influenzae To Protect Against Disease
Grp./AU	:	1645
Examiner	:	Jana A. Hines

October 16, 2003

APPEAL BRIEF AND REQUEST FOR EXTENSION OF TIME
TOTAL PAGES 78

BY FACSIMILE 703-872-9307

The Commissioner of Patents and Trademarks
BOX AF,
Washington, D.C.
20231, U.S.A.

Dear Sir:

Introduction

This Appeal Brief is submitted pursuant to applicant's appeal from a Final Rejection of claims 6-24 dated October 22, 2002. A Notice of Appeal was filed on April 22, 2003. The enclosed Credit Card Payment Form includes the prescribed fee. In the event of underpayment or overpayment please apply any additional charges or refunds to USPTO Deposit Account Number 500715. Three copies of the Appeal Brief are provided herewith.

Extension of Time

Petition is hereby made under the provisions of 37 CFR 1.136(a) for an extension of four months of the period for filing this Appeal Brief. The enclosed Credit Card Payment Form includes the prescribed fee. In the event of underpayment or overpayment please apply any additional charges or refunds to USPTO Deposit Account Number 500715.

It is submitted that these findings are a surprising result. In addition, it is further surprising that HMW would enhance the vigorous antibody response to H91A Hin47, since it is a weaker immunogen.

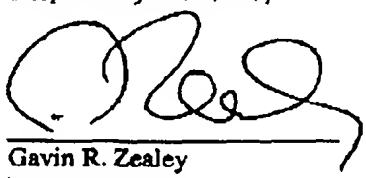
Furthermore, these results are unexpected in the field of combination vaccines. There is little expectation of success that simply mixing existing vaccine antigens will not result in incompatibilities amongst the various antigens, resulting in loss of stability or reduced potency or indeed a synergistic effect increasing potency. Immune interference cannot be predicted. Others skilled in the art of combination vaccines have found that the preparation of combination vaccines is far from straight forward. For example Cauldfield et al (2001) report on the need for a balanced formulations of vaccine components in the preparation of DTP combination vaccines to circumvent interference with the components. Van den Bosch et al (2003) have also reported that the addition of a potential antigen (Pal A) from A. pleuropneumoniae can completely eliminate the positive efficacy of known antigens (ApxI and II) when combined (see abstract).

For all these reasons, it is submitted that claims 6 to 24 are patentable over the applied art and the rejection thereof under 35 USC 103(a) as being unpatentable over Barenkamp in view of Loosmore et al.

(11) Summary

Having regard to the above detailed discussion, it is submitted that the Examiner is in error in rejecting claim 6 to 24 as being unpatentable and hence the rejection thereof under 35 USC 103(a) as being unpatentable over the combination of Barenkamp (WO 97/36914) in view of Loosmore et al, should be REVERSED.

Respectfully submitted,



Gavin R. Zealey
Reg. No. 39,475
Customer No. 033444
Toronto, Ontario, Canada,
TEL No. (416) 667-2854
FAX No. (416) 667-2459